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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/696,109

10/29/2003

Robert Wright

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6914

7590

05/02/2006

EXAMINER

PYO, MONICA M

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ART UNIT

PAPER NUMBER

2161

DATE MAILED: 05/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/696,109	Applicant(s) WRIGHT ET AL.	
	Examiner Monica M. Pyo	Art Unit 2161	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. Claims 1-21 are present for examination.
2. Claims 1-21 are rejected.

***Information Disclosure Statement***

3. No information disclosure statement (IDS) was submitted.

***Preliminary Amendment***

4. Preliminary Amendment was submitted and filed on 4/13/2006.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-3, 6-8, 10-13, 15-16 and 18-21 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,757,691 issued to Welsh et al. (hereafter Welsh).

**Claim 1:**

Regarding Claim 1, Welsh disclose that it is well known in the art that a method for providing delivery of segmented data files comprising:

receiving a request to send a data file to a target device (Welsh: col. 1, lns. 35-39 & 63-66; fig. 2);

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querying a directory for one or more segments corresponding to said data file, wherein each said segment includes a pointer to a data bundle located at one or more source locations (Welsh: col. 1, lns. 63-67; col. 2, lns. 1-15; col. 4, lns. 21-27);

selecting one said source location for each said segment (Welsh: col. 2, lns. 5-11; fig. 3);  
and

transmitting said data bundle from each said selected source location to said target device (Welsh: col. 2, lns. 8-15).

Claim 2:

Regarding Claim 2, Welsh disclose the method further comprising updating said directory with pointers to said target device for each said data bundle transmitted to said target device (Welsh: col. 2, lns. 8-15; col. 5, lns. 38-40).

Claim 3:

Regarding Claim 3, Welsh disclose the method wherein said request is from said target device (Welsh: col. 1, lns. 63-66).

Claim 6:

Regarding Claim 6, Welsh disclose the method further comprising:

Receiving said data file (Welsh: col. 1, lns. 35-39 & 63-66; fig. 2);

Segmenting said data file into data bundles (Welsh: col. 2, lns. 5-11; fig. 3);

Staging said data bundles to one or more said source locations (Welsh: col. 1, lns. 63-67; col. 2, lns. 1-15); and

Updating said directory to reflect said data bundles and said source locations for said data file (Welsh: col. 2, lns. 1-15; col. 5, lns. 38-40).

Claim 7:

Regarding Claim 7, Welsh disclose the method wherein said selecting is responsive to a network topology (Welsh: col. 1, lns. 56-62).

Claim 8:

Regarding Claim 8, Welsh disclose the method wherein said selecting is responsive to capabilities at said one or more source locations (Welsh: col. 2, lns. 5-15).

Claim 10:

Regarding Claim 10, Welsh disclose the method wherein said data file includes one or more of audio and video (Welsh: col. 1, lns. 1-19).

Claim 11:

Regarding Claim 11, Welsh disclose the method wherein said target device is a personal computer (Welsh: col. 1, lns. 35-39).

Claim 12:

Regarding Claim 12, Welsh disclose the method wherein said target device includes a video server (Welsh: col. 1, lns. 1-19).

Claim 13:

Regarding Claim 13, Welsh disclose the method wherein said target device includes an audio server (Welsh: col. 1, lns. 1-19).

Claim 15:

Regarding Claim 15, Welsh disclose the method wherein said target device is any device capable of storing said data file (Welsh: Welsh: col. 1, lns. 19-24).

Claim 16:

Regarding Claim 16, Welsh disclose a system for providing delivery of segmented data files comprising:

- a data file accessible via a network (Welsh: col. 1, lns. 35-39 & 47-51);
- a directory accessible via said network (Welsh: col. 2, lns. 8-15);
- a target device in communication with said network (Welsh: col. 1, lns. 51-62); and
- a network element in communication with said network including instructions to implement a method including (Welsh: col. 1, lns. 46-54):
  - receiving a request via said network to send said data file to said target device (Welsh: col. 1, lns. 35-39 & 63-66; fig. 2);
  - querying said directory via said network for one ore more segments corresponding to said data file, wherein each said segment is located via pointer to a data bundle located at one ore more source locations (Welsh: col. 1, lns. 63-67; col. 2, lns. 1-15);
  - selecting one said source location for each said segment (Welsh: col. 2, lns. 5-11; fig. 3);
  - transmitting said data bundle via said network from each said selected source location to said target device (Welsh: col. 2, lns. 8-15).

Claim 18:

Regarding Claim 18, Welsh disclose the system wherein said network includes the Internet (Welsh: col. 1, lns. 56-59).

Claim 19:

Regarding Claim 19, Welsh disclose the system wherein said network includes a broadband network (Welsh: col. 5, lns. 43-47).

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Claim 20:

Regarding Claim 20, Welsh disclose the system wherein said network is any network capable of transmitting data from one location to another location (Welsh: col. 1, lns. 35-39 & 46-51).

Claim 21:

Regarding Claim 21, Welsh disclose a computer program product for providing delivery of segmented data files, the computer program product comprising:

a storage medium readable by a processing circuit and storing instructions for execution by the processing circuit for performing a method comprising (Welsh: col. 1, lns. 19-29):

receiving a request to send a data file to a target device (Welsh: col. 1, lns. 35-39 & 63-66; fig. 2);

querying a directory for one or more segments corresponding to said data file, wherein each said segment includes a pointer to a data bundle located at one ore more source locations (Welsh: col. 1, lns. 63-67; col. 2, lns. 1-15);

selecting one said source location for each said segment (Welsh: col. 2, lns. 5-11; fig. 3); and

transmitting said data bundle from each said selected source location to said target device (Welsh: col. 2, lns. 8-15).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 4 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Welsh as applied to claims 1-3, 6-8, 10-13, 15-16 and 18-21 above, and further in view of U.S. Patent No. 6,862,594 issued to Saulpaugh (hereafter Saulpaugh).

Claim 4:

Regarding Claim 4, Welsh does not explicitly disclose the method further comprising retransmitting said data bundle from one of said selected source locations in response to a transmission error.

However, Saulpaugh disclose the method further comprising retransmitting said data bundle from one of said selected source locations in response to a transmission error (Saulpaugh: col. 54, lns. 50-61).

It would have been obvious to a person with ordinary skill in the art at the time of invention to apply the flexible searching criteria service of Saulpaugh into the content choice by searching a profile database of Welsh. Skilled artisan would have been motivated to incorporate the Saulpaugh's teaching of retransmitting a data when an error occurs and utilizing a wireless network environment in the Welsh's teaching of managing user's content choice to utilize the wireless network and accessing a service in a distributed computing environment (Saulpaugh: col. 8, lns. 27-36).

Claim 17:

Regarding Claim 17, Welsh and Saulpaugh disclose the system wherein said network includes a wireless network (Saulpaugh: col. 15, lns. 33-42).



9. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Welsh as applied to claims 1-3, 6-8, 10-13, 15-16 and 18-21 above, and further in view of U.S. Patent Application Publication No. 2004/0236785 by Greiner (hereafter Greiner).

Claim 5:

Regarding Claim 5, Welsh does not explicitly disclose the method further comprising transmitting instructions for reassembling said data file from said data bundles.

However, Greiner disclose the method further comprising transmitting instructions for reassembling said data file from said data bundles (Greiner: [0042], Ins. 4-7 & 11-16).

It would have been obvious to a person with ordinary skill in the art at the time of invention to apply the reassembling instruction of Greiner into the content choice by searching a profile database of Welsh. Skilled artisan would have been motivated to incorporate the Greiner's teaching of transmitting the instruction to reassemble the data in the Welsh's teaching of managing user's content choice to utilize the improved method and system for uploading data from first device to second device over a communication network (Greiner: [0006], Ins. 1-5).

10. Claims 9 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Welsh as applied to claims 1-3, 6-8, 10-13, 15-16 and 18-21 above, and further in view of U.S. Patent No. 6,486,892 issued to Stern (hereafter Stern).

Claim 9:

Regarding Claim 9, Welsh does not disclose the method wherein said data file includes one or more of a software package, a software patch and a software upgrade.

However, Stern disclose the method wherein said data file includes one or more of a software package, a software patch and a software upgrade (Stern: col. 7, lns. 45-50).

It would have been obvious to a person with ordinary skill in the art at the time of invention to apply the system to accessing and manipulating information of Stern into the content choice by searching a profile database of Welsh. Skilled artisan would have been motivated to incorporate the Stern's teaching of receiving periodic updates of predetermined information in the Welsh's teaching of managing user's content choice to utilize the periodic and automatic queries to sites containing information relevant to the user (Stern: col. 1, lns. 50-56).

Claim 14:

Regarding Claim 14, Welsh and Stern disclose wherein said target device is a hand held device with storage capability including one or more of a telephone, a personal digital assistant and an audio player (Welsh: col. 1, lns. 1-19) and (Stern: col. 7, lns. 61-67).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monica M. Pyo whose telephone number is 571-272-8192. The examiner can normally be reached on Mon-Fri 6:30 - 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on 571-272-4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Monica M Pyo  
Examiner  
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4/24/06

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